

REMARKS

Applicant submits this Reply to the Office Action mailed December 14, 2006. By this Reply, Applicant requests reconsideration of the outstanding claim rejections. Accordingly, claims 15 and 19-33 remain pending.

In the Office Action, claims 15, 19-22, and 25-33 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,112,823 to Liberman et al. ("Liberman"); and claims 23 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Liberman in view of U.S. Patent No. 4,522,551 to Henneberry ("Henneberry"). Applicant respectfully traverses these rejections for the reasons provided below.

Applicant submits that Liberman cannot anticipate claims 15, 19-22, and 25-33 because Liberman does not disclose each and every element of claims 15, 19-22, and 25-33. Prior art anticipates a claim only if each and every element as set forth in the claim is found described in the prior art. M.P.E.P. § 2131.

With respect to independent claim 15, Liberman fails to disclose, among other things, "a fluid cylinder operatively connected to the fluid source, wherein the fluid cylinder, in response to a constant fluid input from the fluid source, operates at a first speed during a first portion of an extension stroke and operates at a second speed during a second portion of the extension stroke; and a speed control operatively connected to the cylinder and automatically changing the fluid input to the cylinder to operate the cylinder at the first speed during the second portion of the extension stroke." Liberman discloses a "control apparatus for an intermittently extended hydraulic cylinder . . . which governs cylinder elongation such that the rate of elongation is essentially

constant with respect to time.” Liberman, Abstract. Liberman further discloses that “[t]o determine the proper time period for an hydraulic cylinder to be regulated such that cylinder elongation is intermittent and an essentially constant function with respect to time, the length of the cylinder stroke is subdivided into a plurality of equal length intervals.” Liberman, col. 4, ll. 14-18. Liberman adds:

For any particular hydraulic cylinder, knowing a length increment and the flow capacity of a constant flow rate pump supplying hydraulic fluid to the cylinder, the time period can readily be determined during which hydraulic fluid must be admitted to the cylinder so that the cylinder extends a distance equal to one length increment. The selected time period is then set in the second timer 30. Accordingly, each time the second timer circuit 30 is operative, the valve 20 is open and the cylinder will extend through one length increment.

Liberman, col. 4, ll. 18-23. The valve 20 disclosed in Liberman precludes a constant fluid input being responsible for a cylinder operating at a first speed during a first portion of an extension stroke and operating at a second speed during a second portion of the extension stroke. See Liberman, Figs. 1 and 2. In other words, Liberman does not disclose “wherein the fluid cylinder, in response to a constant fluid input from the fluid source, operates at a first speed during a first portion of an extension stroke and operates at a second speed during a second portion of the extension stroke,” as recited in claim 15 (emphasis added).

In addition, Liberman discloses that “by controlling the time interval between length increments, the overall time required to completely extend an hydraulic cylinder may be varied.” Liberman, col. 4, ll. 43-45. Liberman further adds that “[m]ore specifically, the time periods during which the length increments occur will require the

same total length of time regardless of any time delay interval interposed between consecutive length increments.” Liberman, col. 4, ll. 46-49. That is, Liberman fails to disclose “a speed control operatively connected to the cylinder and automatically changing the fluid input to the cylinder to operate the cylinder at the first speed during the second portion of the extension stroke,” as recited in claim 15. Rather, Liberman discloses that “by controlling the time interval between length increments, the overall time required to completely extend an hydraulic cylinder may be varied.” Liberman, col. 4, ll. 43-45. Whereas the claimed invention recites a “speed control,” Liberman discloses “controlling the time interval between length increments.” Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(b) rejection of claim 15 and its dependent claims 19-22 and 26-28.

With respect to independent claim 29, Applicant again submits that Liberman fails to disclose each and every element of the claim. For example, Liberman fails to disclose, among other things, “wherein the motor is configured to drive the ejector at a first speed during a first portion of an ejection stroke and drive the ejector at a second speed during a second portion of the ejection stroke in response to a constant input of power from the power source; and a speed control operatively connected to the motor and configured to regulate the amount of power from the power source to the motor to drive the ejector at the same ejection speed during both the first portion and the second portion of the ejection stroke to eject the material from the receptacle of the vehicle at a constant rate,” as recited in claim 29. As fully developed above, Liberman discloses a “control apparatus for an intermittently extended hydraulic cylinder . . . which governs cylinder elongation such that the rate of elongation is essentially constant with respect

to time.” Liberman, Abstract. Liberman further discloses that “each time the second timer circuit 30 is operative, the valve 20 is open and the cylinder will extend through one length increment.” Liberman, col. 4, ll. 26-28. As noted above, the valve 20 disclosed in Liberman precludes a “constant input of power” being responsible for driving the ejector at a first speed during a first portion of an ejection stroke and driving the ejector at a second speed during a second portion of the ejection stroke. In addition, Liberman does not disclose a “speed control.” Instead, Liberman discloses that “by controlling the time interval between length increments, the overall time required to completely extend an hydraulic cylinder may be varied.” Liberman, col. 4, ll. 43-45. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(b) rejection of claim 29 and its dependent claims 30-33.

Regarding the rejection of claims 23 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Liberman in view of Henneberry, Applicant submits that Liberman either alone or in combination with Henneberry does not disclose each and every element of claims 23 and 24. Thus, a combination of Liberman and Henneberry cannot present a *prima facie* case of obviousness because a *prima facie* case of obviousness requires, *inter alia*, that the prior art references, when combined, must teach or suggest every aspect of the claims. M.P.E.P. § 2143.

Henneberry fails to remedy the deficiencies of Liberman noted above with respect to independent claim 15. For example, Henneberry fails to disclose or suggest, among other things, “a fluid cylinder operatively connected to the fluid source, wherein the fluid cylinder, in response to a constant fluid input from the fluid source, operates at a first speed during a first portion of an extension stroke and operates at a second

speed during a second portion of the extension stroke; and a speed control operatively connected to the cylinder and automatically changing the fluid input to the cylinder to operate the cylinder at the first speed during the second portion of the extension stroke,” as required by independent claim 1. Henneberry discloses that a “hydraulic flow control system 28 includes a reservoir or tank 29 for supplying hydraulic pressure fluid via suction line 30, preferably containing a strainer or filter 31 for the usual purposes, to a pump 32” Henneberry, col. 10, ll. 22-25. As fully developed above, Liberman too fails to disclose the recitation of claim 15 set forth above. Consequently, a combination of Lieberman and Henneberry does not present a *prima facie* case of obviousness with respect to claim 15. Claims 23 and 24 depend from claim 15 and include all the limitations of claim 15. Claims 23 and 24 and therefore allowable for at least the same reasons that claim 15 is allowable. Withdrawal of the 35 U.S.C. § 103(a) rejection is respectfully requested.

In view of the foregoing remarks, Applicant submits that the claimed invention is not anticipated or rendered obvious by the prior art references cited against this application. Applicant therefore requests withdrawal of the rejections and timely allowance of all pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

In discussing the specification, claims, and drawings in this Reply, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the

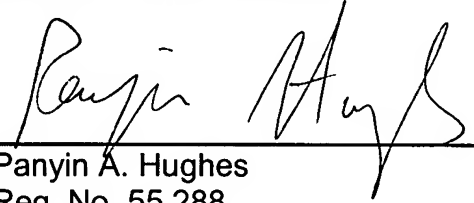
drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: March 14, 2007

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